

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN KELLER,

Plaintiff,

v.

JOHN DOE, et al.,

Defendants.

No. 2:23-cv-01591-DAD-EFB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
THIS ACTION

(Doc. No. 14)

Plaintiff John Keller is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 22, 2024, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's first amended complaint<sup>1</sup> ("FAC") be dismissed due to plaintiff's failure to comply with Federal Rule of Civil Procedure 8. (Doc. No. 14 at 3.) Specifically, the magistrate judge found that plaintiff had not alleged sufficient facts to put defendants on notice of the claims being brought against them because it failed to identify the defendants, the place where plaintiff alleges he was assaulted, and that the force allegedly used against him was carried out maliciously and sadistically. (Doc. No. 14 at 3.) Because plaintiff had been provided two

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<sup>1</sup> The undersigned notes that, while the docket refers to this as plaintiff's first amended complaint, it is actually his second amended complaint. (Doc. Nos. 8, 13.)

1 opportunities to amend in order to cure the noted deficiencies in his complaint, the magistrate  
2 judge recommended that he not be granted further leave to amend because to do so would be  
3 futile. (*Id.* at 4.) Notably, the magistrate judge's two prior screening orders, which granted  
4 plaintiff leave to amend, had found the same deficiencies in plaintiff's operative complaints, such  
5 as his failure to identify the defendants. (*See* Doc. Nos. 6 at 1, 12 at 3.)

6 The pending findings and recommendations were served on the parties and contained  
7 notice that any objections thereto were to be filed within fourteen (14) days after service. (Doc.  
8 No. 14 at 4.) To date, no objections to the pending findings and recommendations have been  
9 filed, and the time in which to do so has now passed.

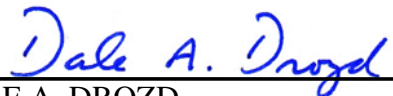
10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
11 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
12 findings and recommendations are supported by the record and by proper analysis.

13 Accordingly,

- 14 1. The findings and recommendations issued on July 22, 2024 (Doc. No. 14) are  
15 adopted in full;
- 16 2. This action is dismissed for failure to state a claim; and
- 17 3. The Clerk of the Court is directed to close this case.

18 IT IS SO ORDERED.

19 Dated: October 19, 2024

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21 DALE A. DROZD  
22 UNITED STATES DISTRICT JUDGE  
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